

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

DENNIS MONTGOMERY, et al.,)	3:06-CV-0056-PMP-VPC
)	
Plaintiff(s),)	<u>MINUTES OF PROCEEDINGS</u>
)	
vs.)	
)	DATED: February 29, 2008
ETREPPID TECHNOLOGIES,)	
et al.,)	
)	
Defendant(s).)	
_____)	

PRESENT: THE HONORABLE VALERIE P. COOKE, MAGISTRATE JUDGE
Deputy Clerk: Lisa Mann Court Reporter: FTR
Counsel for Plaintiff(s): Tuneen Chisolm
Counsel for Defendant(s): Jerry Snyder

PROCEEDINGS: TELEPHONIC DISCOVERY STATUS HEARING

2:05 p.m. Court convenes.

The Court addresses the parties and indicates for the record that this hearing was scheduled to discuss the parties' stipulation regarding the hard drives seized by the Federal Bureau of Investigation ("FBI").

The Court and counsel discuss the parties' respective positions.

Having heard from the parties and good cause appearing, the Court finds as follows:

1) Neutral expert:

- a) Counsel for plaintiffs shall provide counsel for the defendants a list of neutral experts, and defendants' counsel will select a neutral expert from among those listed to complete the review of the computer discs as discussed below.
- b) Neither party shall use as their expert the neutral expert chosen to preform this work as their designated expert in this proceeding.

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- c) There shall be no ex parte contact with the neutral expert. To the extent communication with the neutral expert is necessary, all counsel shall be privy to all communications.

2) Forensic copies of hard drives:

With respect to forensic copying, the parties shall begin with the hard drives that were seized by the FBI for which eTreppid has indicia of ownership, such as a serial number, an invoice, or other indicia of ownership. Ms. Chisolm represents that the cost of a forensic copy is one thousand dollars (\$1,000.00) for each hard drive and will take approximately ten (10) business days to make a copy after a request for copy is made. THEREFORE, IT IS ORDERED that the forensic copies of these hard drives shall be completed no later than **Friday, March 28, 2008**.

With respect to the remaining hard drives seized by the FBI for which there is no indicia of ownership, the plaintiffs shall review their records to determine whether they have indicia of ownership of these hard drives. At a minimum, plaintiffs shall conduct an examination of the initial registrants of the remaining hard drives. The parties are then directed to meet and confer and provide a proposed plan with respect to these remaining hard drives no later than **Friday, March 28, 2008**.

3) Compact discs (CDs) with no indicia of ownership:

The neutral expert will conduct an inspection of the CDs with no indicia of ownership only for the following information:

- a) Identify file name;
- b) Size of file;
- c) Type of file;
- d) Date file was created;
- e) Date of the last modification of the file;
- f) Identity of user;
- g) Format date for CD; and
- h) If software is on the CD, the identity of the licensee.

In light of these rulings, the portion of this Court's February 21, 2008 order (#448) requiring the plaintiffs and defendants to file objections to the United States' notice of filing regarding vendor protocols (#434) by today is VACATED.

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Based upon the representations of counsel, counsel for the United States' shall review the parties' stipulation to determine whether it is necessary to amend the proposed protocols for vendors and shall do so no later than **Wednesday, March 12, 2008**. The plaintiffs and defendants shall file their responses no later than **Friday, March 21, 2008**.

This Court had earlier ordered counsel to meet and confer with their technical experts regarding a document depository for email communications and to file a report today (#448). That deadline is VACATED. Counsel shall file this report on **Friday, March 21, 2008**.

IT IS SO ORDERED.

3:04 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: /s/
Lisa Mann, Deputy Clerk